127 (1)

NO. 08-997

In The
SUPREME COURT OF THE UNTED STATES

WELBON A. DELON
Petitioner,

v.

THE NEWS AND OBSERVER PUBLISHING COMPANY
Of Raleigh, North Carolina, a McClatchy
Newspaper

Respondent,

On Petition For A Writ of Certiorari
To The United States Court of Appeals
For The Fourth Circuit

PETITION FOR REHEARING

Welbon A. DeLon
250 South Estes Drive 13
Chapel Hill, North Carolina 27514
(919) 338-2887

QUESTIONS PRESENTED

1. Whether does U. S. Constitution Article III Section 2 it Judiciary Act of 1789 protect self-representation in Courts the non-membership of 28 U.S.C. §1654?

2. Whether Article III of the Constitution provides protections for non-lawyer all Citizens equal protection that litigates their cases in Courts?

PARTIES TO THE PROCEEDINGS AND RULE 29.6 STATEMENT

There are no parties to the proceeding other than those listed on the caption.

Pursuant to Supreme Court Rule 29.6, Petitioner Welbon A. DeLon makes the following disclosure: Petitioner has no holdings.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
CORPORATE DISCLOSURE	ii
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
OPINIONS BELOW	1
JURISDICTION	2

STATEMENT OF CASE..... 2

REASON FOR GRANTING
THE PETITION..... 17

CONCLUSION..... 21

APPENDIX

CONSTITUTION PROVISIONS AND
STATUTES INVOLVED..... App. i

ARTICLE III..... App. i

STATUTES

28 U.S.C.

SECTION 1654..... App. ii

LETTER..... App. 1

ORDER..... App. 2

JUDGMENT..... App. 3

TABLE OF AUTHORITIES

Page

CASES:

Aleman v. Chugach Support
Services, 06-1461, (4th Cir. 2007)..... 16

Domino's Pizza, Inc., v. McDonald,
04-593 rev'd Cite as: 546 U.S. (2006)..... 8

CBOCS West, Inc., v. Humphries, 06-1431,
(U.S. 2008)..... 8, 15, and 17

Celotex Corp. v. Catrett, 477 U.S. 317(1986)..... 10
Conley v. Gibson, 355 U.S. 41(1957)..... 15

Edelman v. Lynchburg College, 353 U.S.
106 (2002)..... 7, 16

Edelman, 122 S. Ct. at 1148 n. 2 (quoting 29
C.F.R. §1601.12(b)(1997)..... 7

Maty v. Grasselli Chemical Co., 303 U.S. 197.. 15

National Railroad Passenger Corp., v.
Abner Morgan, Jr., 00-1614 (June 10, 2002)..... 8

Runyon v. McCrary, 427 U.S. 160 (1976)..... 8

Skinner v. Maritz, Inc., 253 F.3d. 337

(8th Cir. 2001)..... 15, 18

Spriggs v. Diamond Auto Glass,
165 F.3d. 1015 (4th Cir. 1999)..... 16

Swierkiewicz v. Sorena N.A., 122 S. Ct.
992 (Sup. Ct., 2002)..... 18

Winkelman v. Parma City School
District, 05-983, Feb. 27, 2007..... 3

Winkelman v. Parma City School
Dist., 05-983, S. Ct. May 21, 2007 rev'd..... 12, 20

OPINIONS BELOW

Lower Court Decisions and Orders

United States Court of Appeals for the Fourth Circuit, Order Denying Rehearing, Case No. 08-1203, filed June 10, 2008.

United States Court of Appeals for the Fourth Circuit, Unpublished Opinion, Case No. 08 – 1203, filed May 6, 2008.

United States District Court for the Middle District of North Carolina, Greensboro Division, District Court Order 1:05CV259, filed January 22, 2008 and Order and Recommendation, filed November 5, 2007.

United States District Court for the Middle District of North Carolina, Greensboro Division, Order 1:05CV259, filed June 14, 2007.

United States Court of Appeals for the Fourth Circuit, Order Denying Appeal of the Title VII, Case No. 06-1936 Order, filed February 15, 2007.

United States District Court for the Middle District of North Carolina, Greensboro Division Court Order 1:05CV259, filed May 15, 2006.

JURISDICTION

The U. S. Supreme Court denied a petition for Writ of Certiorari on April 6, 2009. This Rehearing is timely filed according to Supreme Court Rules 44.

The Court derives jurisdiction from 28 U.S.C. §§1254(1) and (2.).

STATEMENT OF THE CASE

Whether does the U. S. Constitution's Article III Section 2, the Judiciary Act of 1789 protects the non-lawyers in Courts same as the lawyer court's membership that of 28 U.S.C. §1654?

Whether Article III of the Constitution provides protections for self-representation inside Federal Courts, do all Citizens have constitution law protection as pro se, litigant rights in district courts?

The United States Constitution *Article III* "Section 1. The judicial

Power of the United States shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish."[1]

In the United States Supreme Court's Oral Argument in *"Winkelman v. Parma City School District, 05-983, February 27, 2007,* Justice Ginsburg . . . "In contrast, in Federal court, there's already 28 U.S.C. 1654, which has been on the books since 1789 as part of the Judiciary Act. That provision allows any party to litigate their own case. So it actually makes a lot of sense that Congress would have included the express right to proceed pro se –."

The District Court judicial members and its Clerk of Court staff are under the Chief Judge's Office and in this case the defendant lawyer employer in this instant are in first impression they share with the appearance of a special relationship with the Chief Judge's Office violates the intent and purpose

---

[1] 2005 Federal Rules of Civil Procedure with Selected Statutes, Cases, and Other Materials authored by Stephen C. Yeazell, Aspen Publishers.

of the Judiciary Act of the First Congressional Act of the 1789 and the Civil Rights Act of 1866 42 USC §1985.

Petitioner complained of misconduct to the Fourth Circuit [Clerk's Office] on or about the September 21, 2006 letter the Courts intervened for the defendant improper behavior on their filing misconduct Angelique R. Vincent on or about September 20, 2006 without serving the other side then Attorney Robert E. Harrington on October 4, 2006, their plead attacks were incidents that prejudiced the other litigant due process rights in Courts, it was not as the Judiciary Act proscribes.

The defendant lawyers prejudiced the pro se litigant in district court and the Fourth Circuit Court of Appeals was a willful act in the Courts to get in the way with the pro se right to appeal legal decisions with defendant misstated law as its own *"Legal Authority"* knowingly it was untrue *"I. The Court Lacks Jurisdiction Over This Interlocutory Appeal"*, is a intentional misstatement that violated Petitioner's legal equal rights to file his pleadings

in accordance as is the Title 28, USC Sec. 636(c) (3).

The rules of law same as the other litigate the lawyer Courts [client]-membership is not to havc unfair preference over the other litigant when there did not exist an Interlocutory Decision. Fed. R. Civ. P. at Rule 73(c).

Defendant-client lawyers the Courts membership the dismissal of January 29, 2007 and the judgment of January 29, 2007 the other party partiality treatment an unjust.

Petitioner timely filed his Rehearing and Rehearing EN BANC Petition 06-1936 filed under Fourth Circuit Local Rule 40(c) by United States Mail priority mailed on February 12, 2007 stamped filed in Court on February 15, 2007, Petition for Writ App. 35 does show partiality; that of Fourth Circuit Court of Appeals January 29, 2007 Order and Judgment.

The Clerk's Office distorted with an untrue different story said Petitioner's filing it was not untimely the February

15, 2007 exhibit App. 35 and further is stated in that document is "The Court denies the petition for rehearing and rehearing en banc as untimely filed".

The denied due process of law in Fourth Circuit Court of Appeals and the District Court is not of the United States Constitution guarantees in lower Courts Procedures which specifies that the rights of all persons must rest upon the same rules under the same circumstance.

U.S. Equal Employment Opportunity Commission did correctly verify Petitioner's Complaint of May 6, 2004, its Form 5, December 7, 2004 related back to the same facts of circumstances of the May 6, 2004 interview EEOC original file No. 141-2004-02868.

The EEOC official changed the file number on December 7, 2004 to NO. 141-2005-00166 and then sent the Form 5, Notification to the employer on December 10, 2004 was sent addressed to: Mr. Jerry Harris, Home Delivery Manager, the News and Observer, 215

S. McDowell Street, Post Office Box 191, Raleigh, NC 27602.

EEOC'S Official not processing his complaint on May 6, 2004 inappropriate action caused a delay the unverified Charge afterward verified with the same circumstances; "Edelman, 122 S. Ct. at 1148 n. 2 (quoting 29 C.F.R. §1601. 12(b) (1997) decided "An unverified but otherwise valid charge has expired....Neither of these points is significant because it is clear from the context that the Form 5 charge relates to the same circumstances as the November 14 letter."

"Title VII" of the Civil Rights Act 1964 and the 42 U.S.C. 2000e does not require whether the employer of fifteen or more are labeled employees, an employer is prohibited to practice employment there could be discrimination that is the purpose to investigate protect all it Citizen's protected rights there shall be free of discrimination in the workplace.

All American citizen's constitutional rights is same as it's others Courts

authority protects all rights to have equal justice under the law [42 USC §1981 and Title VII] which protects all persons within the jurisdiction of the United States; *"Runyon v. McCrary, 427 U.S. 160(1976), Domino's Pizza, Inc., v. McDonald, 04-593 rev'd Cite as: 546 U.S. (2006), Edelman v. Lynchburg College, 535 U.S. 106 (2002), National Railroad Passenger Corporation, v. Abner Morgan, Jr., 00-1614 (June 10, 2002 and CBOCS West, Inc. v. Humphries, 06-1431, (U.S. 2008)."*

The Petitioner's race origin status is disputed by the defendant argument in litigation is an question of fact when it involves the U.S. Constitution in the district courts judicial decisions to summary judge the other pro se litigant out of court without just cause should be an constitution question of fact whether the pro se is unprotected inside federal courts all non-lawyers?

Whether Courts used American's protected class constitutional rights to summary judge a pro se non-membership out of Courts is a substantial question of fact?

Defendant statement to the courts is his official actor manager's citizenship is national origin of the United States it is not of genuine issue of material fact is not grounds for summary judgment when it is brought into a constitutional question of fact it arise as an question of law its governed by the U.S. Constitution.

He him himself Manoj Pandya told a different story beneath his unsworn declaration he was not a national origin citizen his citizenship is [India] does not provide dual citizenships in the United States.

The pro se litigates under the protection of law the Constitution Article III, and since the Company employment unprotected and disallowed access to EEOC protection laws, so the self-representation was forced to turn to basic law principles, unable to afford lawyer' business against the Corporate.

District Judges family relationship concurred to the District Court at Title 28 USC Sec. 636(3) what did not protect this specific litigant in the Fourth

Circuit Court of Appeals affirmed as under what was not of *Celotex Corp. v. Catrett, 477 U.S. 317 (1986)* Held; The Court of Appeals' position is inconsistent with the standard for summary judgment set forth in Rule 56(c).

It appears the U.S. Magistrate Judge could have been improperly influenced by the defendant's lawyer's ability antics to use unproven presumptions rather than adjudicative facts to misstate or exclude matters from discovery facts and the non-membership the non-lawyer without the special associated relationship supported by the Chief Judge's Office letter of 2005, concerning Chief Judge's appointment of the Magistrate Judge to which the pro se withheld his consent filed with the Clerk's Office.

The District Court Docket for Case No. 1:05-cv-00259-WLO-PTS at No. 37 had been filed for the Petitioner October 02, 2006 "Answer" filed into district court in response to District Court's Order of the United States Magistrate Judge May 15, 2006.

The Title VII Claim Writ App. 48, and the second section for discovery on Petitioner Section 1981 cause of action and the district court Clerk Office appearance intentional removed the Petitioner's "Answer" from its Civil Docket at #37 portion and the Fourth Circuit Court of Appeal blocked seems to protect the District Court wrongs and on the lawyers lead; to more impartiality from District Court into the Fourth Circuit Court of Appeals that of the January 29, 2007 and that of the June 10, 2008.

The defendant lawyers argued with disregard for the truth alleged unfound facts more personal than that of law practice was to give cause confusion and mistrust against the other litigant civil rights contradicted their own NC State Bar practice standards under its "Rule 3.4, Fairness to Opposing Party and Counsel, is key rule on a lawyer's professional responsibilities when preparing a case for trial."

N.C. Bar Rule 3.4(a) prohibits "unlawfully" destroying, altering, concealing, or obstructing access to

evidence having "potential evidentiary value." Intent to defraud is not required. To determine whether particular conduct is prohibited... Federal law, on the other hand, makes it a crime to "corruptly" obstruct the "due administration of justice." 18 U.S.C. §1503.

The respondent and the lower courts knew of Plaintiff's May 6, 2004 Title VII unverified charge was done in Raleigh, N.C. EEOC'S Office was within 180 days time limit and his March 23, 2005 Complaint had sustained the defendant move lack sufficient material fact should have prevented defendant's abilities have dismissal and summary judgment the other litigant his 2003 Race Complaint his Sec. 1981 Claim stood within the limit of statutory law 28 U.S.C. §1658.

The Pro Se the non-lawyer have legal statutory rights to litigate in Federal Courts to plead a person's Complaint is sufficient evidence that the defendant did not dispute is Material Facts; "Winkelman v. Parma City School Dist., 05-983, S. Ct. May 21, 2007 reversed"

at issue does Pro Se the non-lawyer constitute rights to litigate in Federal Courts.

Plaintiff pleading of *June 8, 2005* was with *personal knowledge* under oath stated substantial relevant material factor evidence the EEOC Officials did not tell the truth about May 6, 2004 its truth I was a walk-in and I was a office visit and I was interviewed it was an unverified Charge within 180 days.

The Pro Se non-membership his legal rights were unprotected because the other party appeared to have influence over the Courts proceedings over the substantial evidence as Writ App. 41, ***"On June 8, 2005, Plaintiff opposed the motion to dismiss."***

Defendant had not objected, and did not reply to plaintiff's pleading his material fact prima facie evidence submitted under affidavit filed on June 8, 2005 and where the District Court's Clerk Office had required defendant to reply by June 20, 2005 on defendant move for dismissal of the non-lawyer Title VII Claim.

Middle District Court's Records Civil Docket is the Petitioner wit this is a substantial material fact that did not protect the Pro se legal rights as entitled the other litigates due process of law that denial is partiality if the judicial system takes preference.

It is in contradiction "where from the District Court Magistrate Judge Instructions only to the other party "...you must share everything or that evidence may not come into trial and during deposition all you need to do is object to the questions to protect at trial".

Defendants' lawyer's personal know ledged is contrary and contradictory to this Case its law practice and that of the Supreme Court and the Fourth Circuit Court of Appeal *"Edelman v. Lynchburg College – "The Court held that an employee who files a timely charge of discrimination with the EEOC that is not under oath can verify the charge after the filing deadline. As long as the employee filed the original unverified charge within the time limit,*

it will be considered timely." the author is the defendant lawyer in this Case.

All laws are pertinent in Courts *"CBCS WEST, Inc. v. HUMPHRIES, 06-1431(S. Ct. 2008)* held.... and serve the same purpose of providing black citizens the same legal rights as enjoyed by other citizens" to that end is due process of law Title 28 U.S.C. Section 1654, and as the Supreme Court ruled in *"Conley v. Gibson, 355 U.S., 41(1957),"* Pp. 48, "...the principle that the purpose of pleading is to facilitate a proper decision on the merits. *Cf. Maty v. Grasselli Chemical Co., 303 U.S. 197.*

"Skinner v. Maritz, Inc., 253 F.3d. 337 (8th Cir. 2001)" "Another Circuit Court of Appeals held that an at-will employee-a worker employed without a written contract in an agreement terminable at will by either party-had sufficient contractual rights to sue her employer under 42 U.S.C. (Sec) 1981. ***That statue prohibits racial discrimination from the inception through the end of a contract."***

District Court in Petition Writ App. 10 Finally ... including in 1992, 1994, 1998 and 2000. (Id. at 8-10.) overlooked Petitioner pro se discovery matters also was missing is the prima facie evidence the Pro Se 2003 Race Complaint to the District Court the rule of law does allow the pro se litigant's Complaint to be allowable evidence in the summary judgment proceedings his filing on March 23, 2005, Pp. 9-10, that which the defendant elected not to defend but to use that Courts membership lawyers protection in this instant to influence with membership against the non-membership, the Pro Se.

District Court's conclusions conflicts with the Fourth Circuit Courts of Appeals decision of June 10, 2008, where even the Fourth Circuit Court of Appeals reasoning's are inconsistencies with its own decisions *"Edelman v. Lynchburg College, 535 U.S. 106 (2002), and Spriggs v. Diamond Auto Glass, 165 F.3d. 1015 (4th Cir. 1999) and "Aleman v. Chugach Support Services, 06-1461, (4th Cir.)(May 3, 2007)* decided was "We reinstate the claims of the first plaintiff because the exemption for

Alaska Native Corporations from suit under Title VII does not immunize the defendants from suit under the separate and independent cause of action established by Section 1981."

REASONS FOR GRANTING THE WRIT

Whether correct the United States Constitution does protect all people whether in Courts or outside Courts it protects all U.S. citizens under the United States Constitution is as is the Judiciary Act of 1789?

Petitioner did present a disputed case, with his prima facie evidence that was not disputed by the defendant; which did meet McDonnell Douglas requirements I, had argued N.C. is law under its own Contract laws within it state and its Court of Appeal reversed the lower court's decision in Johnson. **"The Court held that newspaper delivery was *not* an independent business or occupation, and *newspaper carriers* were as much an integral part of the newspaper industry as typesetters and editors."**

As in *"Swierkiewicz v. Sorena N.A., 122 S. Ct. 992 (Sup. Ct., 2002)* Swierkiewicz, the United States Supreme Court Reversed. Decided "An employment discrimination complaint need not contain specific facts to establish a prima facie case under the McDonnell Douglas framework .... All the plaintiff need show is 1) membership in a protected group, 2) qualification for the job in question, 3) an adverse employment action, and 4) circumstances supporting an inference of discrimination.

Company employment practice is requires all independent Newspaper Carriers in order to maintain their contractual employment must work alongside the Company other employees doing the same type of employment, without full benefits and equal rights. *"Skinner v. Maritz, Inc., 253 F.3d 337 (8th Cir. 2001)* Reversing, the Eighth Circuit noted that plaintiff's authority to maintain her claim depends on the meaning of word "contract" as used in (sec.) 1981. Addressing an issue of first impression for the circuit, the court noted that federal courts must look to

state law definition of "contract" in adjudicating 1981 claims."

Defendant admissions it promotion policy; "sometimes Company it does promote, employ its newspaper carriers direct into its workforce" and it did promote Mr. Smith and Mr. Pandya that evidence presented disputed a genuine issue of material fact evidential fact because defendant argument newspaper carriers all are independent contractors and they operate their own business separate from the business necessity it does not discriminate.

Petitioner filed in District Court Magistrate Judge's Order for Discovery due on October 2, 2006 that pleading appear as never filed was removed from the District Courts Docket at No. 37 was supposed to be the other litigant evidence to protect his Section 1981 *"The Plaintiff's independent contract did not receive the equal opportunity for the Plaintiff's possible promotion, which was in discrimination, without any measure to protect."*

The Company does discriminate with it promotion policy Mr. Pandya's and Mr. Smith's the once unskilled routine workers they received an different treatment than it others newspaper carrier they did not have direct promotions into high level employment to supervise over its own employees and the other newspaper carriers.

The News & Observer Newspapers Company does discriminate because it's promotion policy does not protect all with full and equal benefits deprive it other citizens (newspaper carriers) included its other employees inabilities to protect their promotion for the same opportunity to their contracted rights their constitutional rights under the law for equal rights protected by Title VII and 42 U.S.C. Section 1981.

The law of the land is rule of law there shall be vested in one supreme Court.... and in "Winkelman v. Parma City School District, 05-983 our justices ruled reversed decided May 21, 2007 an Pro Se has legal Constitutional rights to litigate their own case in Federal

Courts its law the Judiciary Act 1789 by the First Congress enactment.

CONCLUSION

The Petitioner prayer for relief rehearing of this petition to reconsider April 6, 2009 for redress as is proscribed Article III protection under the United States Constitution its Judiciary Act of 1789.

Respectfully submitted,

Welbon A. DeLon
250 South Estes Drive 13
Chapel Hill, N.C. 27514
(919) 338-2887

April 29, 2009

CERTIFICATE OF GOOD FAITH

Petitioner hereby certifies that the foregoing Petition for Rehearing was submitted in good faith and not for purpose of delay.

/s/ Welbon A. DeLon
Petitioner-Pro Se
250 South Estes Drive 13

Chapel Hill, N.C. 27514

Subscribed and sworn to before me this _29th_day of April, 2009 at Chapel Hill, North Carolina.

_____

My Commission Expires

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

ARTICLE III

Section 1. The judicial Power of the United States shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls – to all Cases of admiralty and maritime Jurisdiction; - to Controversies between two or more states; - between Citizens of different States; - between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

STATUTES
28 U. S. C.

Section1654. APPEARANCE PERSONALLY OR BY COUNSEL

(a) In all courts of the United States the parties may plead and conduct their own cases personally or by counsel, as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Lewis F. Powell, Jr. United States Courthouse Annex
1100 E. Main Street, Suite 501
Richmond, Virginia 23219-3517
www.ca4.uscourts.gov

Patricia S. Connor
Clerk

Telephone
(804) 9162700

September 21, 2006

Welbon A. Delon
Number 13
250 South Estes Drive
Chapel Hill, NC 27514

Re: 06-1936 Delon v. News and Observer
1:05 – cv – 00259 – WLO

Dear Mr. Delon:

The appellee's motion to dismiss appeal was filed in this office on 9/21/06. The appellant must file four copies of a response to the motion in the clerk's office on or before 10/5/06.

Yours truly,

PATRICIA S. CONNOR
Clerk

/s/ Deborah S. Daniel
By: _____
Deputy Clerk

cc: Angelique Regail Vincent
James H. Bingham Jr.
Robert E. Harrington

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
January 29, 2007

No. 06-1936
1: 05-cv-00259-WLO

WELBON A. DELON
Plaintiff – Appellant

v.

THE NEWS AND OBSERVER PUBLISHING COMPANY OF RALEIGH, NORTH CAROLINA, a McClatchy Newspaper

---

ORDER

Appellee has filed a motion to dismiss. and appellant has filed a response to deny the motion to dismiss for lack of service.

The Court grants appellee's motion to dismiss and denies appellant's motion to deny the motion to dismiss.

Entered at the direction of Judge Wilkinson with the concurrence of Judge Niemeyer and Judge Motz.

For the Court,

/s/ Patricia S. Connor

CLERK

JUDGMENT

FILED: January 29, 2009

UNITED STATES COURT OF APPEALS

for the

FOURTH CIRCUIT

No. 06-1936
1:05-cv-00259-WLO

WELBON A. DELON
Plaintiff – Appellant

v.

THE NEWS AND OBSERVER PUBLISHING COMPANY OF RALEIGH, NORTH CAROLINA, a McClatchy Newspaper
Defendant – Appellee

Appeal from the United States District Court for the Middle District of North Carolina at Greensboro

---

In accordance with the Court's order of today, the above appeal is hereby dismissed.

A certified copy of this judgment will be provided to the District Court upon issuance of the mandate. The judgment will take effect upon issuance of the mandate.

/s/ Patricia S. Connor

CLERK